

# SENATE BILL REPORT

## SB 5594

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As Reported by Senate Committee On:  
Health Care, February 16, 2017  
Ways & Means, March 20, 2017

**Title:** An act relating to transition services for people with developmental disabilities.

**Brief Description:** Concerning transition services for people with developmental disabilities.

**Sponsors:** Senators Keiser, Rivers, Cleveland, Fain, Darneille, Miloscia, Wellman, Frockt, Conway and Rossi.

**Brief History:**

**Committee Activity:** Health Care: 2/13/17, 2/16/17 [DPS-WM, w/oRec].  
Ways & Means: 3/15/17, 3/20/17 [DP2S, DNP, w/oRec].

**Brief Summary of Second Substitute Bill**

- Prohibits long-term admissions to Fircrest School.
- Requires the Intermediate Care Facility at Fircrest to cease operation as of December 31, 2022.
- Requires the Nursing Facility at Fircrest to cease operation when the population reaches 16 persons.
- Requires the net proceeds from the use of land at Fircrest to be deposited into the Developmental Disabilities (DD) Trust account.
- Allows funds within the DD Trust account to be used for State Operated Living Alternative (SOLA) placements, and other community residential services supporting people with developmental disabilities.
- Requires DSHS to study the siting of a Federally Qualified Health Center and recommend a location based on the needs of the developmental disability population.
- Requires DSHS to complete an appraisal of the lands at Fircrest and submit a report to the Governor and Legislature on options for transferring the Fircrest School lands.

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**SENATE COMMITTEE ON HEALTH CARE**

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** That Substitute Senate Bill No. 5594 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Rivers, Chair; Cleveland, Ranking Minority Member; Kuderer, Assistant Ranking Minority Member; Bailey, Conway, Fain, Keiser, Miloscia, Mullet, O'Ban and Walsh.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Becker, Vice Chair.

**Staff:** LeighBeth Merrick (786-7445)

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## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 5594 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Honeyford, Vice Chair, Capital Budget; Bailey, Becker, Fain, Keiser, Padden, Rivers, Schoesler, Warnick and Zeiger.

**Minority Report:** Do not pass.

Signed by Senators Ranker, Ranking Minority Member; Rolfes, Assistant Ranking Minority Member, Operating Budget; Conway, Hasegawa and Pedersen.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Frockt, Assistant Ranking Minority Member, Capital Budget; Billig, Carlyle and Darneille.

**Staff:** James Kettel (786-7459)

**Background:** The Developmental Disabilities Administration (DDA) within the Department of Social and Health Services (DSHS) provides support and services to persons with developmental disabilities. Services include case management, needs assessments, support in activities of daily living, employment, and rehabilitative therapies. The DSHS also provides medical, dental, and pharmaceutical services to persons with developmental disabilities. Services may be provided in three different service settings: in the client's own home; in a community residential home; or in a Residential Habilitation Center (RHC).

RHCs serve individuals who have exceptional care and treatment needs due to their developmental disabilities by providing residential care designed to develop individual capacities to their optimum. RHCs may be certified as an Intermediate Care Facility for Individuals with Intellectual Disabilities(ICF/ID) and/or as a nursing facility. The state operates four RHCs which are established in statute to provide services and housing for persons with developmental disabilities: Rainier School in Buckley; Lakeland Village in Medical Lake; Fircrest School in Shoreline; and Yakima Valley School (YVS) in Selah. The Francis Haddon Morgan RHC was closed on December 31, 2011. Beginning in 2012, no person under the age of 16 may be admitted to an RHC.

Residential programs provide support for persons living in community living situations. These include non-facility based living situations such as supported living and state-operated living alternatives (SOLAs) which are operated by the DDA with state employees providing instruction and support to clients.

Fircrest School provides both nursing facility care and ICF/ID care to about 200 people with developmental disabilities. The average resident of Fircrest School is over 50 years of age.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Second Substitute):** DSHS must ensure that each RHC resident's habilitation plan include a plan for discharge to the community. The discharge plan must be developed using a person-centered approach to identify services the resident needs to succeed in the community, including: using family-to-family mentoring; placing residents on the appropriate home and community-based waiver to ensure access to services; providing residents and their families the opportunity to visit community living settings; offering residents a right to return to an RHC in the first year following their move; addressing additional services needed in the community such as medical and transportation services; and monitoring residents who leave RHCs, including the use of unannounced visits.

By December 31, 2022, a building at Fircrest School must be remodeled and updated to serve as a nursing home for the nursing home patients living at Fircrest. Other buildings at Fircrest must be consolidated and residents must be provided an opportunity to remain at Fircrest or to move into the remodeled nursing facility, a SOLA, supported living, or a skilled nursing facility in the community. If the resident fails to succeed in the community, the resident may move to an RHC but may not move back to Fircrest. DSHS must establish SOLAs to provide services to residents transitioning to the community. RHC employees must be provided an opportunity to work in SOLAs as they are established. Eight additional crisis stabilization beds must be established based on funding and geographic need.

Revenue generated from the Fircrest properties must be deposited into the Dan Thompson Memorial Developmental Disabilities Community Trust Account. Monies from the account must be spent on family support and employment services, and residential programs supporting people with developmental disabilities.

A Federally Qualified Health Center (FQHC) must be built on the property of Fircrest School and this property must be sold or leased for this purpose. The FQHC must use and build on existing services available at Fircrest School including the medical and dental services and adaptive technology services. Care is to be provided to Fircrest School residents and the community, including individuals with developmental disabilities residing in the community. Building must start on the FQHC by December 31, 2022.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):**

- Prohibits long-term admissions to Fircrest School for both the Intermediate Care Facility (ICF) and the Nursing Facility (NF).
- Allows admission for short-term respite or crisis stabilization services.

- Requires the ICF to cease operation as of December 31, 2022.
- Requires ICF residents to transition to the setting that meets their needs, including community settings or a different RHC.
- Limits the ability of a SOLA to reject clients.
- Clarifies SOLAs may not eject or discontinue services except where agreed to by the client.
- Allows unannounced visits for RHC clients who have moved to the community.
- Requires the NF to cease operation when the population reaches 16 persons.
- Allows limited capital investment to occur on the Fircrest campus to accommodate the needs of NF clients, if necessary.
- Removes the requirement that a FQHC be built on Fircrest land.
- Requires DSHS to study the siting of an FQHC and recommend a location based on the needs of the developmental disability population.
- Requires any net proceeds from the use of land at Fircrest when it ceases operation to be deposited into the Developmental Disabilities (DD) Trust account.
- Clarifies funds within the DD Trust account may be used for SOLA placements, and other community residential services supporting people with developmental disabilities.
- Requires DSHS to complete an appraisal of the lands at Fircrest and submit a report to the Governor and Legislature on options for transferring the Fircrest School lands.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on First Substitute (Health Care):** PRO: Fircrest School has made a large capital budget request because the buildings on its grounds are not well maintained and are failing. Fircrest has also not been able to move people into the community. There have been multiple studies over many years on what to do with Fircrest School. This is controversial and difficult and we have been working with all parties to address the needs of the clients and how we can best serve them. This is a transition plan that needs to start now. Updating and remodeling a new facility is a great idea, also establishing a FQHC is a good idea. Community placement is already called out and is not needed to restate in the bill. We need to allow people to return to Fircrest. People deserve options and SOLAs are stable environments for their residents and they provide living wages for their employees. People need to have work opportunities.

CON: The buildings at Fircrest need to be updated. Some residents cannot assist in determining where they want to live because they are noncommunicative. Some people cannot be served in the community with decentralized services.

OTHER: People need to stay in RHCs so they have access to all the services provided by the RHCs. When a person is in crisis, they need professionally trained staff. Residents want a right of return and the ability to return to Fircrest after they leave if they do not do well in the

community. More SOLAs are needed because staffing is stable and the employees are well-trained. Other service settings are not as stable because of the lower wages to providers in those settings. We need to look at the water quality at Fircrest and the money that is generated there already like the machine shop and the trust lands. The nursing home needs to be replaced and vocational buildings need to be removed. Moving people into SOLAs does not work because people have different levels of needs and we cannot continue to violate *Olmstead*. We need to look at the enhanced role of the SOLAs; they are community houses and factors such as rent and roommates may affect whether the resident does well in the community. The Capital budget needs are incredible and this is an opportunity to do something different through the Fircrest master plan. We support no new admissions to Fircrest. Fifteen states have closed their institutions and another nine only have one institution. People have a right to community living with no segregation. This is an opportunity to move people into SOLAs and keep state jobs. There are services available to Fircrest residents that are not available to people in the community; people at Fircrest need these services. *Olmstead* supports choice, people should live in the community when it is appropriate and when it is not opposed by the individual. This bill is premature; we need a replacement of the building, not just a remodel. The buildings at Fircrest need to be updated to keep people safe. Funding needs to be provided to allow people to live in the least restrictive environment. Revenue generated by the land should be used to help people in the community and funding the institutions takes money away from the community.

**Persons Testifying (Health Care):** PRO: Senator Karen Keiser, Prime Sponsor; Bill Anderson, Friends of Fircrest & VOR; Diane Rauschenberg, Chapter 1 Retired Public Employees Council/ Retired ADSA/Local 491/Rainier School.

CON: Kent Questad PhD, Friends of Fircrest.

OTHER: Julianne Moore, Washington Federation of State Employees; Donna Patrick, Developmental Disabilities Council; Margaret-Lee Thompson, the Arc of United States Board, retired; Saskia Davis, ActionDD; Noah Seidel, Self Advocates in Leadership; Matt Zuvich, WA Federation of State Employees; Senator Maralyn Chase.

**Persons Signed In To Testify But Not Testifying (Health Care):** No one.

**Staff Summary of Public Testimony on Proposed Second Substitute (Ways & Means):** *The committee recommended a different version of the bill than what was heard.* PRO: The use of SOLAs and the expansion of SOLAs is a great idea. One of the reasons why people cannot be placed into community settings is that there is not an appropriate step down. SOLAs would create an available setting for many people in RHCs. If Fircrest is not closed, then following the master plan makes sense. The expectations for what people with developmental disabilities can achieve is much different than when RHCs were established. Many people do not even realize that RHCs still exist. RHCs are like a 1954 Cadillac. In their day, RHCs were considered the best, but now they are too expensive and unneeded. The expectation is that individuals with developmental disabilities will live in community settings. The Americans with Disabilities Act, and the Individuals with Disabilities Education Act, have made major changes, and it is no longer a huge burden if a family has a child with a disability. We need to continue moving in the direction of placing people into community settings. Many people with severe disabilities are living in the community and

they are doing fine. Individuals with developmental disabilities living in the community have more interaction with other people. They have part time jobs, friends, and a better chance of visiting with family members. The state has successfully downsized the RHCs, from a high of about 4000 clients in the 1960's to about 700 clients today. People with the most significant disabilities actually live with their families, not in institutions or other residential settings. Families are the main care provider and support to the people with the most significant disabilities. A broad array of services to meet the needs of clients is very important, including the availability of employment services and community access services. The RHCs are an optional Medicaid service. It may not be possible to serve clients in the more expensive settings if there are major changes to Medicaid. Parents and children expect to have choices and life opportunities that are not limited. People have a right to privacy, which can be difficult to find in an RHC.

CON: The Fircrest property is not just a valuable piece of property. It is a home for many people. DSHS has not acted on requests for rentals of unused property on campus. Some property has been deeded over to the public health lab. Other parts of the property are used as a dog park. Some people left the Frances Haddon Morgan Center and they were placed into Fircrest, and these people have never been placed into community settings. Other states are pointed to as success stories, but there are still problems. Placements cannot occur in urban centers, because the placements are too expensive. There cannot be a general assumption that closing an RHC will save money. By the time an individual is placed at Fircrest for crisis stabilization there is usually a need for one-on-one, or two-on-one services. The master plan should be completed before a decision is made about the nursing facility at Fircrest. Remodeling the vacant building on campus would only account for three-quarters of the current capacity. The adult training buildings may actually make more sense for a new nursing facility. Discharge planning is against federal law. People have misconceptions of Fircrest based on the memory of institutions from many years ago. The federal government pays half the cost of services provided at Fircrest.

OTHER: Many aspects of this proposal are agreeable. It is possible for everyone to come to a middle ground. Stable staffing is the key, especially for individuals who have explosive behaviors. Please consider a set aside for affordable housing for individuals with developmental disabilities. There has to be a zero-reject option for placements, and the best option is SOLA. Addressing the vendor rate for community residential providers will also help with community placement. DSHS should be required to update the plan from 2003 to show how people will transition from Fircrest, and how employees will continue to work in SOLAs. A housing set-aside in the housing trust fund is important to control the cost of rent. Please adopt a consistent policy related to developmental disabilities. Building a new nursing facility on the Fircrest campus does not make sense. The concept of a no-reject and no-eject SOLA is really important, but there may be some needed adjustments to the language.

**Persons Testifying (Ways & Means):** PRO: Senator Karen Keiser, Prime Sponsor; Loren Freeman, Freeman & Associates; Domna Patrick, Developmental Disabilities Council; Kyle Matheson, Shoreline People First, Advisor; Ivanova Smith, People First of Washington; Noah Seidel, Self Advocates in Leadership; David Lord, Disability Rights Washington.

CON: Saskia Davis, Friends of Fircrest.

OTHER: Julianne Moore, Washington Federation of State Employees; Matt Zuvich, Washington Federation of State Employees; Lindsey Grad, SEIU Healthcare 1199NW; Margaret-Lee Thompson, Parent Advocate.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.